Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

JAMES WIDTFELDT,
Appellant
v.
STATE OF NEBRASKA,
COUNSEL FOR DISCIPLINE,
NEBRASKA SUPREME COURT,
Appellee.

On Appeal From
The Nebraska Supreme Court

PETITION FOR WRIT OF CERTIORARI

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September 21, 2006

QUESTIONS PRESENTED

Question Presented with Sub Parts

The Nebraska Supreme Court has enterred a series of four disciplinary actions against appellant, all directed toward suppressing freedom of speech through complaints to the counsel of discipline, by a highly biased local judge and lawyer, and the United States Supreme Court must set up a nationwide lawyers disciplinary commission to free up standards of discussion, so that pressing society issues can be presented and open discussion had without Nebraska's knee jerk

QUESTIONS PRESENTED

reaction to suspend and discipline lawyers, on the following matters on which free speech is being suppressed:

a) all freedom of speech regarding packing of Nebraska Supreme Court with Democratic party members

b) case statistics to show extraordinary party line bias of individual judges;

c) alcohol testing of lawyers prior to cases so that drunken conduct has a factual background, rather than automatic prosecution of those reporting drunkenness in court;

QUESTIONS PRESENTED

d) protection of lawyers of Republican Party where the Nebraska Supreme Court is packed with and composed entirely of members of the Democratic Party, missioned on an inquisition

e) protection of the public from a Nebraska Supreme Court appointed by former Democratic governor Ben Nelson, based on Entergy vs Arkansas, Inc. definition of contract contrary to definition in remainder of nation.

f) Nebraska sweeping racial discrmination swept under rug by Nebraska disciplinary action against lawyers reporting racial discrimination

g) Federal Farm Program skews land values and subsidies to ultra high taxes and ultra low income, must be open for discussion in court and discussion must be protected from hazing from Nebraska Supreme Court

h) Unicameral legislature is too weak due to one house discussion of issues, to stand up to robust discussion common to two house legislatures which discuss issues twice before passage

i) Nebraska Supreme Court uses its unanimous Democratic Party Membership to

QUESTIONS PRESENTED

abuse Republican lawyers and engage in college fraternity style hazing of dissent.

j) Reparations for Nebraskans harmed by suppression of lawyers through all Democrat Nebraska Supreme Court

PARTIES TO THE PROCEEDING BELOW

James Widtfeldt is the only party to the proceedings below, other than the appellants.

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Estate of Marr, referenced in Appendix B, from Holt County Court file. Case will be supplied if Petition for Certiorari is granted. 4,7,9,21,22

European Communities-Export Subsidies on Sugar, AB-2005-2,WT/DS265/AB/R; WT/DS283/AB/R 28 April 2005 (05-1728), World Trade Organization, Report of the Appellate Body

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Appendix B June 23, 2006 ***Nebraska vs Widtfeldt ex rel NSBA***,271 Neb 851, 716 NW2d68

Appendix C February 4, 2005, ***Nebraska vs Widtfeldt ex rel NSBA***, 269 Neb 289, 691 NW 2d 531

Appendix D Private Reprimand, ***Nebraska vs Widtfeldt ex rel NSBA***, no cite

Appendix E Reiser Insurance summary of insurance rates for lawyer dated May 28, 2004

Appendix F Omaha World Herald article

September 1, 2006, titled ***"Three High court candidates advance"*** by Leslie Reed, 8 pages, on page 4 identifies that "The current seven member court is composed entirely of Democrats appointed by former Gov. Ben Nelson."

Appendix G ..Omaha World Herald article September 1, 2006 biographies of ***"Chief Justice Nominees"***

Appendix H .. September 8, 2006 National Republican Congressional Committee award of Medal to appellant

Appendix I, Two page list of charges paid to George Moyer for advice on all cases for which disciplinary charges were filed nonetheless, showing additional fees Judge

Alan Brodbeck refused to allow to be charged to clients although clients in Kollman and Marr changed their written directions on several occasions, leading to the disciplinary charges as though appellant would have known in advance how clients would change their minds. Bills not allowed by Judge Brodbeck total in excess of $26,846.19, besides insurance and "Psychologist" services to figure out why 7 Democrats packed on the Nebraska Supreme Court might find fault with appellant fees to probably force a fee for Forrest Peetz.

Appendix J.. July 7, 2005 James Widtfeldt check to Peetz Law Firm for $3,380.86 compensation

to Peetz resulting from Peetz probably biased testimony that Widtfeldt fees were too high, part of a continuing pressure to split fees with Peetz, or be subject to disciplinary charges. Shows that Peetz testimony in appendix B and C cases was probably part of a Peetz understanding with County Judge Brodbeck whereby Peetz testimony minimizing Widtfeldt work would result in Peetz compensation.

Appendix K, Wall Street Journal Article of September 18, 2006, *"Health Care Consultants Reap Fees From Those They Evaluate As Insurance, Drug Costs Rise, Employers Seeking Advice Often Discover Conflicts, A Superintendent's Surprise"*, by

Barbara Martinez, shows that Insurance Companies awarded Grady $517,138 for guiding insurance contract of client (page 3). Highly likely that Nebraska Supreme Court ruling that malpractice insurance for lawyers is mandatory, resulted in similar kickback to all Democrat Nebraska Supreme Court, in additon to enabling Supreme Court to increase Appellant insurance by many thousands of dollars, requiring higher fees for services of appellant.

Appendix L: Copy of United States Census Report showing thatHolt County Nebraska population decreased from 11,551 April 1, 2000 to 10,784 on July 1, 2005,

notwithstanding influx of Hispanic seasonal workers, representing a decrease of 6.6 percent population in five years, due to failed farm policies and too high taxes for the value of the property being taxed.

Appendix M: Wall Street Journal article August 12, 2006, "A Test for Alcohol -- And Its Flaws -- A new screen detects Sunday's gin in Monday's urine but it may be ensnaring some innocent people too

Appendix N: "Constitutional Provisions and Rules Involved" in this case, includes ***First Amendment*** freedom to petition government, ***Fifth Amendment*** deprivation of property without due process, take private property without just

compensation; **Fourteenth Amendment** abridge privileges and immunities clause, ***Nebraska DR1-102 Misconduct; Nebraska DR 2-106 fees;, Nebraska DR 7-102 representing client within bounds of the law***

PETITION FOR WRIT OF CERTIORARI

Petitioner James Widtfeldt respectfully petitions for a writ of certiorari to review multiple judgments and orders of the Nebraska Supreme court, appearing in the appendix at A,B,C, and D.

OPINIONS BELOW

There are two opinions, one reprimand, and one judgment being appealed. The later cases reference the earlier, making a chain of actions by Nebraska, for which the appeal time is measured 90 days from the last order.

The August 24, 2006 judgment appears at Appendix A, is not yet available with citations, and is an order compelling appellant to pay for a "referee report" and other fees,

The June 23, 2006 decision, suspends appellant for a year for "charging excessive fees",

appears at Appendix B, and ties the case to earlier cases.

The February 4, 2005 decision suspends appellant for a year, but ties the case to other cases filed.

The private reprimand of September 26, 2002, is the first, resulting from a mishmash of conflicting legal advice surrounding an estate tax matter.

JURISDICTIONAL STATEMENT

This court's jurisdiction is invoked pursuant to 28 USC § 1257. Appeal is made of a sequence of Disciplinary actions brought against appellant, all tied together in a chain, dated respectively, September 26, 2002, February 4, 2005, June 23, 2006, and August 24, 2006. Because the decisions constitute a chain, each later decision

referring to those previous, the appeal time runs from the last of the said decisions, and pursuant to United States Supreme Court Rule 14, is 90 days following the final order.

RELEVANT STATUTORY PROVISIONS:

The relevant statutory provisions are reproduced in the Appendix at N.

STATEMENT

Petitioner has a Ph.D. and a J.D. degree, approximately double or more the education of most other lawyers, and is able to do much more skilled intellectual work, than most other lawyers, exciting jealousy from other lawyers.

The State of Nebraska Lawyer Disciplinary Procedures are misused by Nebraska. The seven members of the State Supreme Court, all members

of the Democratic Party, all appointed by former Governor Ben Nelson, have formed an unlawful clique to harass and suspend or disbar this lawyer who is a member of the Republican party, to silence deserved criticisms of the Nebraska State Bar Association, deserved criticisms of the Nebraska courts, deserved criticisms of he Nebraska Democratic party and its intrusion into government, deserved criticisms of the Nebraska tax system, and generally defeat some or all of Appellant's Federal Constitutional Rights.

In appendix C, Forrest Peetz testified against appellant's fees, with a conflict of interest because Peetz was later able to capitalize on the resulting Judge Brodbeck grievance and get paid in the ***Marr*** and ***Kollman*** cases for work done by appellant. In appendix C, Judge Brodbeck at one point approved 1 percent as the customary and

reasonable fees, at another point in Kollman approved 2 percent as the non-litigation lawyer fees, and earlier approved 8 percent each for lawyer and personal representative fees as a come on to get the sick Ralph Owen Kissinger in as PR, but later, after tremendous work was done due to Kissinger's health problems, the court reneged, re-opened the case, and allowed no pay whatever for the additional work done due to Kissinger's health problems, nothing for out of pockets due to Kissinger's health problems, and none whatever for appellant's fees, notwithstanding tremendous out of pocket expenses incurred.

Petitioner requests that each order and judgment, as itemized herein, be reversed, and that this Court establish its licensing as primary and exclusive over state licensing of lawyers, and

exercise its authority to regulate licensing of lawyers and judges, where the following issues apply as they do in this case:

a) FREEDOM OF SPEECH: In this case appellant exercised freedom of speech to try to curb Nebraska abuses and do his duty to respond to grievances; the US Supreme Court has already visited this issue, generally in favor of freedom of speech, in the following cases:

Gentile v. State Bar of Nevada, 501 US 1030, 111 S.Ct. 2720, (1991)where press conference statements were ruled likely to prejudice a future trial, but this court reversed the Nevada decision. ***Gentile*** should carry weight to reverse the present case, because appellant accurately described racial discrimination and overwhelming one-sided decision making of the local judge, resulting in discipline which would only serve to keep the

Nebraska Supreme Court unaware of any similar past, present or future problems in the courts.

Hamdan vs Rumsfeld, 126 S.Ct.2749, (June, 2006) a military tribunal in Guantanamo evaluating Hamdan for terrorism, much like a seven member Nebraska Supreme Court with members only of the Democratic Party to review criticism by a Republican lawyer (appellant) of a lawyer who was a Democrat (Peetz), was not expressly authorized by any congressional act, and declared the military tribunal incompatible with the Geneva Conventions;

Application of Griffiths, 413 US 717, 93 S.Ct. 2851 (1973), held that the Connecticut Supreme Court wrongly denied equal protection to an alien by denying eligibility to become a lawyer, Griffiths, a citizen of the Netherlands, who applied to be a lawyer, after marrying a citizen of the US, was

given relief. This is a parallel to the present case, where the seven member Nebraska Supreme Court is composed entirely of Democrats nominated by former Governor Ben Nelson, and Judge Brodbeck has refused in all known cases to decide any cases in favor of appellant Widtfeldt or Widtfeldt clients, as though Widtfeldt was an alien, and the disciplinary action serves only to smother whatever diversity might still exist in freedom of speech or thought in Nebraska.

Mallard vs US District Court for the Southern District of Iowa, 490 US 2996, 109 S.Ct.1814 (1989) was reversed and remanded by this court, to grant a writ of mandamus so that Mallard, a beginning lawyer with minimal self confidence skills, did not become compelled to represent an indigent defendant. This case applies directly to the present appeal, because appellant Widtfeldt has

never prevailed in any contested case on fees before Judge Alan Brodbeck of the Holt County Court, expediting the bringing in of outside counsel in all contested cases including those of ***Kollman*** and ***Marr*** where grievances were filed and appealed herein, and such cases resulting frequently in appellant having to apply for fees enough to pay outside counsel, as well as reimburse appellant's expenses. Appellant, similar to Mallard, had no ability as a Republican Party member, in Judge Alan Brodbeck's Holt County Court, and hence the customary refusal of Brodbeck to approve any fees at all, except such as might be stipulated, justified the equivalent of a writ of mandamus excusing appellant from the cases. Because Holt County Judge Alan Brodbeck not only refused to approve fees for appellant during cases, refused to approve fees for outside

counsel secured by appellant for whom appellant might be responsible, a great element of slave labor was always present. Judge Brodbeck liked to subject fees to the occasional end of case client changes of mind which could turn stipulated matters and lengthy amounts of work, into contested fees after all the legal work was done and the clients no longer needed a lawyer at all, but were glad to get a cheap lawyer to get out of paying fees, these matters were particularly helpful to challenge and reduce the standing of lawyers who might be members of the Republican party. In such cases, appellant clients could sometimes, as in ***Kollman*** estate, be persuaded by Judge Brodbeck to find a lawyer who was a member of the Democratic party. Judge Brodbeck was customarily still reviewing fees and reopening fees, making appellant's status in Judge

Brodbeck's court substantially similar to ***Mallard***, that is, completely unlikely to inspire any confidence that any help acquired by appellant would be either paid or have the necessary skills.

b) KEEP FEDERAL CASE AND ALCOHOL STATISTICS It is particularly important that the United States Supreme Court keep statistics on alcohol use (see appendix M, a new alcohol test which is effective for days after use, see August 12, 2006 WSJ page 1 article) by judges and lawyers, such as by a new test or the new judge decisions on computer records, which could quickly show the one sided nature of any local judge. Nebraska wrongly but immediately prosecutes any lawyer who notices alcohol abuse anywhere, and it would be helpful to have an independent record from the US Supreme Court, to offset all the partisan Democratic Party harassment when alcoholism is

b) NEBRASKA SUPREME COURT IS ALL DEMOCRATIC PARTY MEMBERS DURING ALL RELEVANT TIMES IN THIS CASE: State Supreme Court Judges, all members of the Democratic Party, in this case, are or were appointed by one former Democratic Party Governor, Ben Nelson, paving the way for extensive critical examination of Republican lawyers, and taking away the necessary balance of power between executive, legislative and judicial branches of government;

c) NEBRASKA GOVERNMENT DEFINES CONTRACTS DIFFERENT THAN REST OF NATION: State of Nebraska has breached its contract with the low level radioactive waste commission (appellant rented office space to US

Ecology, a development agency for the radioactive waste siting) ***Entergy Arkansas, Inc. vs Nebraska,*** 226 F. Supp2d 1047 (Sep 30, 2002). The contract, authorized by the US Congress, resulting in a $140 million judgment against Nebraska for reason of Nebraska's failure to perform. Governor Ben Nelson, who presided over and instigated the default, selected and appointed all the 7 Nebraska Supreme Court Judges. This should tell the court that business in Nebraska will be held hostage by bizarre misinterpretations of contracts by the Nebraska Supreme Court, for many years into the future. Federal review of the credentials of Nebraska state lawyers could save the public in Nebraska from additional contract defaults similar to that in ***Entergy***, supra.

d) NEBRASKA DOES NOT WANT TO HEAR ABOUT RACIAL DISCRIMINATION AS

SHOWN BY APPEALED DECISIONS: Racial discrimination fostered by and concealed under local regulatory ordinances, including water, sewer, garbage, and other municipal services which are or are not available depending on the race of the renter and whether there is a buyer influential with the city trying to shake down the seller, not only gives the appearance of Nebraska thumbing its nose at 28USC1983 and other related civil rights statutes, but greatly decreases the value of private property as "landowners" struggle continuously with extortionate regulation, unfriendly city workers, and the occasional investor who plans to overcome all fraud and make a profit.

e) . FEDERAL PROGRAMS OVERWHELM FREE MARKET IN NEBRASKA, IN AG. TEMPTING NEBRASKA TO LAUNCH REAL

ESTATE TAXES INTO ORBIT: Overwhelming federal programs, including cheap food, and farm, inflate land prices due to cheap strategic loans, tending to nationalize land through wetlands, conservation, noxious weed, and chemical ag programs, tied in with stiff mafia style penalties for plowing up even a square inch of wetlands, resulting in minimal income value to the private "landowner" and maximum real estate taxes. Nebraska is intensely jealous of inflated land values resulting from such programs and inflated taxes. Organized crime would not be able to better silence lawyers about the injustice of few or no income, and maximum real estate taxes. See ***United States-Subsidies on Upland Cotton***, AB-2004-5, WT/DS267/AB/R 3 March, 2005 (05-884), a World Trade Organization final appeal decision finding USDA and FSA counter -cyclical payments

inconsistent with the GATT Agriculture Agreement obligations of the US. Nebraska has brought disciplinary proceedings against appellant for understanding the USDA program, that the program is eligible for punishment tariffs.

f) UNICAMERAL LEGISLATURE IS WEAK COMPOUNDS DANGER TO LAWYERS REGULATED BY THE "STATE BAR" UNPROTECTED FROM NEBRASKA WHILE WORKING ON FEDERAL PROJECTS. The Nebraska Supreme Court has only members of the Democratic Party as judges, all nominated to the court by former Democrat Governor Ben Nelson. No other political party or Governor has any input. The Nebraska Unicameral was emasculated to a one house legislature during the 1930s, modeled after Europeans despotic rulers. The weak unicameral, which gets but one chance to

vote on any issue, unlike two chances at two house legislatures, is another reason that federal protection of Nebraska lawyers should be instituted where federal laws pre-empt.

f) RACIAL DISCRIMINATION AND ALCOHOL ABUSE PROTECTED BY NEBRASKA IN APPENDIX C, SHOW THE US SUPREME COURT HAS TO TAKE OVER LAWYER PROTECTION IN THESE AREAS

The reader's attention is directed to Nebraska's claim that appellant allegations of alcohol abuse and racism are "inflammatory", see Appendix B, and subject appellant (rather than the perpetrator of racism and alcoholism in Nebraska) to discipline. Nebraska is ignoring or encouraging racial discrimination and alcohol abuse in lawyer related functions, blaming those who report.

1. RACE DISCRIMINATION WINKED AT

Appellant and ancestors, have developed rental housing in Holt County for many years. Holt County is near three Indian reservations. Appellant was representing Glen Macklem, who is part Indian, and succeeded in the first step of getting the voluntary disqualification of Judge Brodbeck, which resulted in the first grievance herein of Forrest Peetz. Judge Brodbeck has given seemingly sure wins in all contested cases to all lawyers other than James Widtfeldt and all clients other than James Widtfeldt clients. In Nebraska, the Public needs protected from the Democratic Party.

2. ADOLPH HITLER THOUGHT UP BY NEBRASKA SUPREME COURT AS ONLY

SOLUTION TO APPELLANT'S DESCRIPTION OF "FAMOUS DICTATOR OF 1940S"

The Nebraska Supreme Court erred to claim James Widtfeldt compared Forrest Peetz with Adolph Hitler. The name of Adolph Hitler appeared first in the Nebraska Supreme Court opinion, appendix C, not in any appellant responses to grievances, which appellant was obligated to respond to and which the Nebraska Supreme Court labeled confidential, and then the Nebraska Supreme Court concealed the responses and excerpted misleading and unauthorized quotes for the newspaper. Other 1940s leaders took dictatorial powers and abused population during World War II, and became famous, Adolph Hitler became infamous. The Nebraska Supreme Court conclusion reveals surprisingly favorable court views on race discrimination and explains

why the US Supreme Court should pre-empt lawyer ethics in Nebraska on the subject of race. Nebraska Supreme Court favor to race discrimination requires reversal of decisions at A,B,C, and D because appellant clearly did not bring up the comparison of Peetz to Hitler.

3. THE PROBABILITY OF ½ TO WIN OR LOSE, MULTIPLIED BY ITSELF FOR FORTY CASES GIVES THE PROBABILITY OF NEVER WINNING ANY OF THE FORTY CASES, AND IS SOMEWHAT LESS THAN ONE IN A TRILLION:

Judge Alan Brodbeck has, for his entire career, made a habit of seldom or never deciding any (known or recalled) contested case or decision in favor of James Widtfeldt or James Widtfeldt clients, leading to Widtfeldt importation of other lawyers such as Mike Johnson in ***Kollman*** and

4. WHY ESTATE OF MARR AND ESTATE OF KOLLMAN WERE ENTITLED TO GREATER LAWYER FEES THAN NORMAL.

Additional lawyer expenses are generally approved in most courts as the cases become more contested. In Judge Brodbeck's court, Brodbeck himself is making the case harder whenever appellant is representing a party, to try to steer the case outcome unlawfully. The 7 Democrats on the Nebraska Supreme Court, contribute to an even greater level of case difficulty, and a higher fee should be allowed. Marr was additionally greatly complicated by PR candidate Ralph Owen Kissinger's occasional apparently real complete lapses of memory as to isolated but occasionally important facts, requiring but not receiving, after

Judge Brodbeck changed Brodbeck's mind several times, much additional hospital care as a part of his PR job.

Marr (see appendix B) was also complicated by the efforts of Judge Brodbeck to install Forrest Peetz as lawyer for the estate, by entering disappearing orders (formal opening record substantially disappeared as to oral testimony) leaving the parties guessing whether the estate would cover any necessary hospitalization of Kissinger resulting from the estate.

5. LADY LUCK PROVES THAT REPEATED BRODBECK DECISIONS AGAINST WIDTFLDT CLIENTS WERE NOT RANDOM

Losing every case in a row for 40 cases with a probability of ½ on each case, gives a probability of one in a trillion, multiply by the number of

lawyers in Nebraska and a lawyer with a record of consecutive losses such as appellant should appear in Nebraska about once every million years. Stipulated cases are not counted in this model, unless the court discovers a way to throw out the stipulation. Like a dictator who takes away the property of one or a few, the favored many are corrupted absolutely.

The entire subject of timing of options for executive compensation was discovered by analysis of probability. ***Authorities Probe Improper Backdating of Options, Wall Street Journal, Page 1, November 11, 2005***.

Too bad appellant is the only one who is able to notice such things in any Nebraska Court.

6. A RATIONAL EXPLANATION OF HIGHLY DETAILED PLEADINGS WHICH ARE

DEMONSTRATED IN THIS CASE TO DEFEAT SIGNIFICANT INACCURATE GRIEVANCES BY JUDGE BRODBECK

The result of a biased judge like judge Brodbeck, is that the dis-favored lawyer, appellant, put more and more detail in pleadings, anticipating and defeating the ever more malicious schemes developed, employed and handed out as losses in Judge Brodbeck's court.

The natural reaction to a judge who has decided all cases against one lawyer and that lawyer's clients for many years, (besides the result of quickly corrupting all the other lawyers who win regardless of the evidence and therefore are partners in misbehavior with the judge), is to result in much greater pleading detail, to fight the court sponsored loser label.

The Nebraska Supreme Court misrepresents the facts by implying that generosity by the referee resulted in dismissal of some charges. The **reason for dismissal of additional charges against appellant, was exactly the "rambling, irrelevant details which made the pleadings difficult to understand**," at 269 Neb 289,290, without which Judge Brodbeck would otherwise have got away with claiming ignorance about the pre death non-creditor status of the nominated personal representatives.

While excessively detailed pleadings might be a disadvantage with an upstanding, fair and impartial judge, that is no part of the situation in Holt County, Nebraska.

7. NUMEROUS ILLUSTRATIONS OF RACISM THROUGH LOCAL GOVERNMENT

ARE BEYOND REMEDY TO THE STATE BAR

Appellant has in the last eleven years, experienced lengthy significant obstruction of use of private property rented to minorities, including sewer, garbage and water services obstruction.

8. THE ALL DEMOCRAT NEBRASKA SUPREME COURT MADE LAWYER INSURANCE MANDATORY IN NEBRASKA -- THE INSURANCE RAISED THE COST OF LEGAL SERVICES BECAUSE OF IRRESISTIBLE TEMPTATIONS TO THE ALL DEMOCRAT SUPREME COURT, TO TORPEDO REPUBLICAN LAWYERS.

The Nebraska Supreme Court cannot fairly and impartially deal with the ethical problems stirred up by the irresistible opportunities to inflate one lawyer's insurance bill (a Republican,

of course) and reduce the cost of another lawyer's insurance (a Democrat, of course), and then file disciplinary charges against the lawyers who charge more to pay their insurance (the Republicans).

9. CASE WHERE THE US SUPREME COURT REFUSED CERTIORARI IN BAR DISCIPLINE

Bean v. Virginia State Bar, 126 S.Ct. 1803, decided December 22, 2005, suspended Bean for having cited anticipated testimony, without double checking the testimony with the medical doctor who later denied having made the statement criticizing another doctor, and filed a grievance against the lawyer instead. Bean has no application here.

10. ANIMOSITY TOWARD HISPANICS

The Nebraska Supreme Court opinion at 269 Neb 289, 290, inaccurately implies that personal animosity might be a factor in pleadings filed against the City of O'Neill, for refusal to turn on water for Hispanic renters, and persistent refusal of the City of O'Neill to collect garbage for Hispanic renters.

The Nebraska Supreme Court is wrong. Appellant has collected records of all hazing and harassment of minorities to fight the harassment.

Now, of course, appellant is astonished that such anti business sentiments seem reasonable to the Democrats.

11. POPULATION LOST DUE TO BAD GOVERNMENT

In the past five years, about 1.3 percent per

year of the population in Holt County has died or left the County each year. Appendix L.

SOURCES:

"3 high court candidates advance", in the World Herald, September 1, 2006, Appendix F, is the source that Neb Sup Court Judges are Democrats appointed by Governor Ben Nelson.

Appendix D is a private reprimand for tax matters, referenced wherever taxes are discussed.

Appendix E is the Reiser Insurance letter.

Appendix G parallels Appendix E.

Appendix H shows that appellant is active in Republican activities.

Appendix I shows appellant received advice from lawyer Moyer, which was not enough to satisfy the all Democrat Supreme Court.

Appendix J shows a payment to Forrest Peetz, that Peetz testimony was likely biased.

Appendix K shows a possible Neb. Sup Court mandatory lawyer insurance benefit.

Appendix N is the Bar Rules and constitutional issues herein.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted, and appellant granted reasonable compensation for wrongful prosecution by Nebraska.

Respectfully submitted:

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APPENDICES

APPENDIX

A.

IN THE SUPREME COURT OF NEBRASKA
STATE OF NEBRASKA EX REL
COUNSEL FOR DISCIPLINE FOR THE
NEBRASKA SUPREME COURT,
RELATOR,
VS
JAMES WIDTFELDT,
RESPONDENT.

CASE NO 2-04-1400
JUDGMENT FOR COSTS

These matters are before the Court on its own motion for a determination and certification of costs due from the Respondent pursuant to Neb. Rev. Stat. Sections 7-114 and 7-115 (Reissue 1997) and Neb. Ct. R. of Discipline 10(P) and 23(B) and entry of judgment by this court assessing such costs. This judgment is based on the applicable costs taxed to Respondent in the above referenced legal action as recorded in the records of the Clerk of the Supreme Court. The time for the filing of motions for costs and fees and any objections thereto has expired. This Court, having been duly advised in the premises, hereby certifies costs due to be as follows:

Docket fee Due in Supreme Court (6-23-06) $50
Legal Service Fee Due (6-23-06)
$5.00
Automation Fee Due (6-23-06)
$6.00
Uniform Data Analysis Fee (6-23-06)
$1.00
Dispute Resolution Fee Due (6-23-06)
$.75
Education fee due (6-23-06)
$1.00
Indigent Defense Fee Due (6-23-06)
$2.75
Referee Fees and Expenses (11-16-05)
$7,646.60
Total:
$7,713.10

IT IS HEREBY ORDERED that Respondent shall pay the sum of $7713.10 as more fully specified above, with judgment interest as allowable by law.

Dated this 24th day of August, 2006.

BY THE COURT:

_____

John W. Hendry, Chief Justice

Westlaw.

716 N.W.2d 68
271 Neb. 851, 716 N.W.2d 68
(Cite as: 271 Neb. 851, 716 N.W.2d 68)

Supreme Court of Nebraska.

STATE of Nebraska ex rel. COUNSEL FOR DISCIPLINE OF the NEBRASKA SUPREME COURT, relator,

v.

James WIDTFELDT, respondent.

No. S-04-1400.

June 23, 2006.

Background: Attorney disciplinary proceeding

was commenced.

Holding: The Supreme Court held that attorney's entering into agreements for, charging, or collecting illegal or clearly excessive fees in two separate probate proceedings warranted judgment of suspension for a period of one year.

Judgment of suspension.

West Headnotes

[1] Attorney and Client 45 ⚿57

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k47 Proceedings

45k57 k. Review. Most Cited Cases

Under existing case law governing attorney disciplinary proceedings, the Nebraska Supreme Court is limited in its review to examining only those items to which the parties have taken exception.

[2] Attorney and Client 45 ⚿57

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k47 Proceedings

45k57 k. Review. Most Cited Cases

When no exceptions to the referee's findings of fact are filed by either party in an attorney disciplinary proceeding, the Nebraska Supreme Court may, in its discretion, consider the referee's findings as final and conclusive.

[3] Attorney and Client 45 ⚿59.5(1)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.5 Factors Considered

45k59.5(1) k. In General. Most Cited Cases

To determine whether and to what extent discipline should be imposed in a lawyer discipline proceeding, the Nebraska Supreme Court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the respondent generally, and (6) the respondent's present or future fitness to continue in the practice of law.

[4] Attorney and Client 45 ⚿59.5(1)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.5 Factors Considered

45k59.5(1) k. In General. Most Cited Cases

For purpose of determining appropriate discipline, each attorney discipline case must be evaluated individually in light of its particular facts and circumstances.

[5] Attorney and Client 45 ⚿59.5(3)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.5 Factors Considered

45k59.5(3) k. Comparable Disposition Within Jurisdiction. Most Cited Cases

The propriety of a sanction imposed in an attorney disciplinary matter must be considered with reference to the sanctions imposed in prior similar cases.

[6] Attorney and Client 45 ⚿59.5(4)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.5 Factors Considered

45k59.5(4) k. Factors in Aggravation.

Most Cited Cases

Cumulative acts of attorney misconduct are distinguishable from isolated incidents and are therefore deserving of more serious sanctions.

[7] Attorney and Client 45 ⚿59.5(4)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.5 Factors Considered

45k59.5(4) k. Factors in Aggravation.

Most Cited Cases

Attorney and Client 45 ⚿59.13(4)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.13 Suspension

45k59.13(2) Definite Suspension

45k59.13(4) k. Mishandling of Trust Account or Client Funds. Most Cited Cases

Attorney's entering into agreements for, charging, or collecting illegal or clearly excessive fees in two separate probate proceedings warranted judgment of suspension for a period of one year; attorney's cumulative acts of misconduct merited more of a sanction than was afforded by a public reprimand. Code of Prof.Resp., DR 2-106(A).

***68** *Syllabus by the Court*

***851** 1. **Appeal and Error.** Under existing case law, the Nebraska Supreme Court is limited in its review to examining only those items to which the parties have taken exception.

2. **Disciplinary Proceedings: Appeal and Error.** When no exceptions to the referee's findings of fact are filed by either party in a disciplinary proceeding, the Nebraska Supreme Court may, in its discretion, consider the referee's findings as final and conclusive.

69 3. **Disciplinary Proceedings. To determine whether and to what extent discipline should be imposed in a lawyer discipline proceeding, the Nebraska Supreme Court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the respondent

generally, and (6) the respondent's present or future fitness to continue in the practice of law.

4. **Disciplinary Proceedings.** Each attorney discipline case must be evaluated individually in light of its particular facts and circumstances. In addition, the propriety of a sanction must be considered with reference to the sanctions imposed in prior similar cases.

*852 5. **Disciplinary Proceedings.** Neb. Ct. R. of Discipline 4 (rev.2004) provides that misconduct shall be grounds for (1) disbarment; (2) suspension; (3) probation in lieu of or subsequent to suspension, on such terms as the Nebraska

Supreme Court may designate; (4) censure and reprimand; (5) temporary suspension; or (6) private reprimand by the Committee on Inquiry or Disciplinary Review Board.

6. **Disciplinary Proceedings.** Cumulative acts of attorney misconduct are distinguishable from isolated incidents and are therefore deserving of more serious sanctions.

John W. Steele, Assistant Counsel for Discipline, for relator.

George H. Moyer, of Moyer, Moyer, Egley, Fullner & Montag, Madison, for respondent.

HENDRY, C.J., WRIGHT, CONNOLLY, GERRARD, STEPHAN, and McCORMACK, JJ.PER CURIAM.

NATURE OF CASE

This case presents the review of the uncontested findings of the referee in an attorney disciplinary proceeding.

BACKGROUND

James Widtfeldt was admitted to the practice of

law in Nebraska in 1978 and has a general practice in Holt County, Nebraska. He has previously been privately reprimanded for representing both sides of a tax case. He is currently under an order of indefinite suspension to be followed by a period of probation for filing irrelevant and abusive motions and pleadings in an unrelated case and for irrelevant and abusive written responses to the Counsel for Discipline reviewing that case. See *State ex rel. Counsel for Dis. v. Widtfeldt*, 269 Neb. 289, 691 N.W.2d 531 (2005).

The formal charges currently before us concern Widtfeldt's conduct in two separate probate proceedings (described separately in counts I and

II) occurring prior to the current order of suspension. The formal charges alleged that Widtfeldt entered into agreement for, charged, or collected clearly excessive fees, in violation of Canon 2, DR 2-106(A), of the Nebraska Code of Professional Responsibility, and that he knowingly failed to disclose information or had knowingly made a false statement of law or fact during the proceedings, in violation of Canon 7, *853 DR 7-102, of the Nebraska Code of Professional Responsibility. The Counsel for Discipline also charged Widtfeldt with violation of Canon 1, DR-102(A), of the Nebraska Code of Professional Responsibility which prohibits the violation of a disciplinary rule, engaging in

conduct prejudicial to the administration of justice, or any other conduct that adversely reflects on the lawyer's fitness to practice law. After the appointment**70 of the referee, a hearing was held at which **Widtfeldt** was present with counsel.

Count I: Marr Estate

Count I involved the probate proceedings of the estate of Rose M. Marr. The evidence at the hearing showed that **Widtfeldt** entered into an agreement with the personal representatives of the estate to represent them and to receive attorney fees in the amount of 8 percent of the nonprobate

and probate property. **Widtfeldt** later filed an inheritance tax worksheet with the county court, reflecting a gross estate value of $578,943.51 and an attorney fee of $46,434.22. The personal representatives paid **Widtfeldt** this amount from the estate assets, but the county court ultimately ordered the fees to be repaid to the estate. **Widtfeldt** complied with this order.

Widtfeldt testified at that hearing that in the past, his standard fee for estate cases was 2 percent of the gross estate, plus extra sums for extraordinary work. He attempted to explain the 8-percent figure as compensation for conservatorship work at 1 percent per year for 7 years, plus 1 percent for

the estate work.

Widtfeldt admitted that a conservatorship was never actually filed and that the "conservatorship work" was done after Marr's death. This work involved doublechecking all the canceled checks issued by Marr's attorneys in fact pursuant to Marr's powers of attorney. **Widtfeldt** described his work as compiling "an account like a conservator." **Widtfeldt** testified that he did this pursuant to Marr's predeath wish that **Widtfeldt** conduct such a review informally, without court oversight, and that **Widtfeldt** wait to be paid out of the estate for such services. **Widtfeldt** did not have a formal written agreement with Marr to that

effect. **Widtfeldt** was paid during Marr's lifetime for services such as the drafting of her will, and for a cancellation fee for not completing the guardianship-conservatorship which he had drafted for Marr.

***854** The allegation of misrepresentation in the Marr estate stemmed from the fact that the personal representatives were also each initially afforded, through Widtfeldt, 8 percent of the estate under a similar theory of compensation for their past services to Marr. However, when the petition for their appointment was filed, Widtfeldt stated therein that they were not creditors of the estate. Widtfeldt explained that neither of the

personal representatives had a formal compensation arrangement with Marr and that they had told him they were not creditors of the estate. Instead, the compensation was as per Marr's expressed wishes to Widtfeldt that they in fact later be generously compensated.

The referee found, by clear and convincing evidence, that Widtfeldt violated DR 2-106(A) by entering into an agreement for, charging, or collecting an illegal or clearly excessive fee. However, the referee concluded that he could not find by clear and convincing evidence that Widtfeldt had intentionally misled the county court in filing the personal representative

applications as he did. The referee explained that the personal representatives' prior services were admittedly done partially out of friendship with Marr and that no terms of payment had been formally agreed upon. Thus, the referee did not find a "creditor" relationship.

Count Ii: Kollman Estate

Count II involved the estate of Walter Kollman and Widtfeldt's representation of its personal representatives. Widtfeldt entered into an agreement with the personal representatives for attorney fees in the amount of 5 percent of the

estate, with a like percentage designated for the services**71 of each personal representative. An inheritance tax worksheet was eventually presented to and signed by the personal representatives, setting forth a gross estate of $1,419,994.70, attorney fees of $100,999.74 (which was roughly 7 percent of the assets), and personal representatives' fees in the amount of $201,999.47. This sheet was presented to the county attorney, who informed Widtfeldt that he would not approve the worksheet and that Widtfeldt would have to obtain court approval for any such fees.

The worksheet was never filed with the court. Widtfeldt claimed that the reason he never filed

this first worksheet was *855 because it contained errors. He explained that there were mathematical errors, on which he did not elaborate. In addition, Widtfeldt testified that "tempers were fairly high." A litigator had been hired through him for the estate to handle litigation with certain heirs, and Widtfeldt explained that he thought that he was going to have to pay the litigator's expenses out of his own fees because the fees were being informally contested by one of the personal representatives.

Subsequently, Widtfeldt drafted or filed several different and conflicting motions for approval of his fees, ranging from 2 to 5 percent of the estate.

Ultimately, the county court, noting that normal fees for estate actions in that area were 1 percent, awarded a 2-percent fee to Widtfeldt and ordered that any excess fees be refunded. Widtfeldt, pursuant to such order, refunded $28,398 of previously paid fees. The aforementioned litigator testified at the disciplinary hearing that a reasonable rate was between 2 to 3 percent.

The misrepresentation allegations of count II related to alleged false statements to the county court in **Widtfeldt's** pleadings regarding the scheduling of hearings. The Counsel for Discipline however, eventually conceded that **Widtfeldt's** testimony established that the

misrepresentations were unintentional and were a result of administrative error.

The referee found with regard to the false pleadings allegation that the evidence failed to establish any violation. However, the referee found that **Widtfeldt** had violated DR 2-106(A) by charging, albeit without successfully collecting, an excessive fee.

Referee Recommendations

The referee recommended that **Widtfeldt** be publicly reprimanded and that his current

indefinite suspension remain in full force and effect without modification. In so recommending, the referee noted that **Widtfeldt** failed to produce evidence that the events in question were isolated occurrences. The referee did take into consideration **Widtfeldt's** behavior at the hearing, which the referee described as "contrite and cooperative." At the same time, however, the referee noted that **Widtfeldt** did not actually admit to any wrongdoing. The referee also took into account **Widtfeldt's** previous reprimand and his current suspension.

***856** No exceptions were filed to the referee's findings by either party to the proceeding. We

sustained the Counsel for Discipline's motion for judgment on the pleadings as to the violations, but not as to the proposed discipline.

ASSIGNMENTS OF ERROR

In **Widtfeldt's** brief, he assigns that the referee erred (1) by finding that he contracted for, charged, or collected a clearly excessive fee in the Kollman estate and (2) in determining that **Widtfeldt's** conduct in the Kollman estate was cumulative of his conduct in the Marr estate.

**72 ANALYSIS

Widtfeldt's brief focuses on count II and his allegation that he never really intended to collect the 7-percent fee found by the referee to be excessive. The Counsel for Discipline does not assert that any of the subsequent filings of either 2 or 5 percent were clearly excessive given the protracted litigation of the case, and the referee's findings appear to focus on the 7-percent figure.

Widtfeldt accordingly takes issue with the referee's recommendation that he be publicly reprimanded for his conduct related to the Kollman estate. Widtfeldt does not take issue

with the referee's recommendation that his current status of indefinite suspension should continue or with the public reprimand in relation to the Marr estate.

[1][2] Under existing case law, the Nebraska Supreme Court is limited in its review to examining only those items to which the parties have taken exception. *State ex. rel. Counsel for Dis. v. Petersen*, 271 Neb. 262, 710 N.W.2d 646 (2006). When no exceptions to the referee's findings of fact are filed by either party in a disciplinary proceeding, the Nebraska Supreme Court may, in its discretion, consider the referee's findings as final and conclusive. See, *id.*; Neb. Ct. R. of

Discipline 10(L) (rev.2005). In sustaining the Counsel for Discipline's motion for judgment on the pleadings, we have already concluded that **Widtfeldt's** conduct was in violation of DR 2-106(A) on two separate occasions. We consider **Widtfeldt's** arguments in his brief to this court to the extent that they are relevant to the appropriate sanction to be imposed from that conduct. We note that the conduct at issue in this case occurred prior to the September 1, 2005, effective date of the *857 Nebraska Rules of Professional Conduct and is, thus, governed by the now-superseded Code of Professional Responsibility.

[3][4][5] To determine whether and to what extent

discipline should be imposed in a lawyer discipline proceeding, the Nebraska Supreme Court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the respondent generally, and (6) the respondent's present or future fitness to continue in the practice of law. *State ex rel. Counsel for Dis. v. Horneber*, 270 Neb. 951, 708 N.W.2d 620 (2006). Each attorney discipline case must be evaluated individually in light of its particular facts and circumstances. In addition, the propriety of a sanction must be considered with reference to the sanctions imposed in prior similar

cases. *State ex rel. Counsel for Dis. v. Widtfeldt*, 269 Neb. 289, 691 N.W.2d 531 (2005).

The referee, in recommending a public reprimand, considered the case of *State ex rel. Counsel for Dis. v. Palagi*, 269 Neb. 398, 693 N.W.2d 276 (2005), wherein we publicly reprimanded an attorney for having charged an excessive fee in a wrongful death matter. The attorney was also found to have improperly advanced financial assistance to a client and failed to return the property of clients. Other cases considering the issue of excessive fees are limited, and the circumstances in those cases also presented additional violations of the Code of Professional Responsibility. See, *State ex rel.*

Special Counsel for Dis. v. Shapiro, 266 Neb. 328, 665 N.W.2d 615 (2003); *State ex rel. Counsel for Dis. v. Huston*, 262 Neb. 481, 631 N.W.2d 913 (2001); *State ex rel. NSBA v. Miller*, 258 Neb. 181, 602 N.W.2d 486 (1999); *State ex rel. NSBA v. Kirshen*, 232 Neb. 445, 441 N.W.2d 161 (1989).

**73 Widtfeldt's current order of suspension is subject to reinstatement followed by a period of suspension of not less than 1 year. In order to be reinstated under this order, we explained that he will need to establish that counseling has resulted in behavioral changes that will allow him to practice law within the disciplinary rules. At the disciplinary hearing considered in *State ex rel*

Counsel for Dis. v. Widtfeldt, supra, a psychologist concluded that although intelligent, Widtfeldt had narcissistic and obsessive-compulsive personality features which interfered *858 with his ability to reason through certain issues. However, the psychologist opined that Widtfeldt could complete a plan to modify his behavior so that there was a much greater chance that problems would not reoccur.

Neb. Ct. R. of Discipline 4 (rev.2004) provides that misconduct shall be grounds for (1) disbarment; (2) suspension; (3) probation in lieu of or subsequent to suspension, on such terms as we may designate; (4) censure and reprimand; (5)

temporary ~~suspension~~; or (6) private reprimand by the Committee on Inquiry or Disciplinary Review Board.

[6][7] In considering the appropriate discipline in this case, we are mindful of the fact that this is not the first instance of misconduct by Widtfeldt. Cumulative acts of attorney misconduct are distinguishable from isolated incidents and are therefore deserving of more serious sanctions. *State ex rel. Counsel for Dis. v. Swanson*, 267 Neb. 540, 675 N.W.2d 674 (2004). Although Widtfeldt is currently suspended, we find that his cumulative acts of misconduct merit more of a sanction than is afforded by a public reprimand.

We conclude that the appropriate discipline in this case for the two counts of violating DR 2-106(A) is a judgment of suspension for a period of 1 year.

CONCLUSION

We order that Widtfeldt should be and hereby is suspended from the practice of law in the State of Nebraska for a period of 1 year, effective immediately. Widtfeldt is directed to pay costs and expenses in accordance with Neb.Rev.Stat. § § 7-114 and 7-115 (Reissue 1997) and Neb. Ct. R. of Discipline 23(B) (rev.2001).

Judgment of suspension.

MILLER-LERMAN, J., not participating.

Neb.,2006.

State ex rel. Counsel for Discipline of Nebraska Supreme Court v. Widtfeldt

271 Neb. 851, 716 N.W.2d 68

END OF DOCUMENT

C

Supreme Court of Nebraska.

STATE of Nebraska EX REL. COUNSEL FOR DISCIPLINE OF THE NEBRASKA SUPREME COURT, relator,

v.

James WIDTFELDT, respondent.

No. S-03-1312.

Feb. 4, 2005.

Background: Attorney disciplinary proceeding was commenced.

Holding: The Supreme Court held that attorney's repeatedly filing irrelevant and abusive motions and pleadings and written responses to Counsel for Discipline that included irrelevant and abusive material warranted period of indefinite suspension followed by a period of probation of not less than one year.

Judgment of suspension and probation

West Headnotes

[1] Attorney and Client 45 ⚿57

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k47 Proceedings

45k57 k. Review. Most Cited Cases

A proceeding to discipline an attorney is a trial de novo on the record, in which the Nebraska Supreme Court reaches a conclusion independent of the findings of the referee.

[2] Attorney and Client 45 ⚿57

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k47 Proceedings

45k57 k. Review. Most Cited Cases

When no exceptions to the referee's findings of fact are filed by either party in a disciplinary proceeding, the Nebraska Supreme Court may, at its discretion, adopt the findings of the referee as final and conclusive.

[3] Attorney and Client 45 ⚿53(2)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k47 Proceedings

45k53 Evidence

45k53(2) k. Weight and Sufficiency.

Most Cited Cases

To sustain a charge in a disciplinary proceeding against an attorney, the charge must be established by clear and convincing evidence.

[4] Attorney and Client 45 ⚿49

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k47 Proceedings

45k49 k. Nature and Form in General.

Most Cited Cases

(Formerly 45k58)

The basic issues in a disciplinary proceeding against a lawyer are whether discipline should be imposed and, if so, the type of discipline appropriate under the circumstances.

[5] Attorney and Client 45 ⚿59.5(1)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.5 Factors Considered

45k59.5(1) k. In General. Most Cited Cases

(Formerly 45k58)

To determine whether and to what extent discipline should be imposed in a lawyer discipline proceeding, the Nebraska Supreme Court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the

bar as a whole, (4) the protection of the public, (5) the attitude of the offender generally, and (6) the offender's present or future fitness to continue in the practice of law.

[6] Attorney and Client 45 ⚿57

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k47 Proceedings

45k57 k. Review. Most Cited Cases

Each attorney discipline case must be evaluated individually in the light of its particular facts and

circumstances.

[7] Attorney and Client 45 ⚿57

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k47 Proceedings

45k57 k. Review. Most Cited Cases

The propriety of a sanction in an attorney disciplinary proceeding must be considered with reference to the sanctions imposed in prior similar cases.

[8] Attorney and Client 45 ⚿59.5(6)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.5 Factors Considered

45k59.5(6) k. Other Factors. Most Cited Cases

(Formerly 45k58)

To determine the proper discipline of an attorney, the Nebraska Supreme Court considers the attorney's acts both underlying the events of the case and throughout the disciplinary proceeding.

[9] Attorney and Client 45 ⚿59.13(7)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.13 Suspension

45k59.13(6) Indefinite Suspension

45k59.13(7) k. In General. Most Cited Cases

(Formerly 45k58)

Attorney and Client 45 ⚿59.17(1)

45 Attorney and Client

45I The Office of Attorney

45I(C) Discipline

45k59.1 Punishment; Disposition

45k59.17 Probation; Conditional Disposition; Stay

45k59.17(1) k. In General. Most Cited Cases

(Formerly 45k58)

Attorney's repeated filing of irrelevant and abusive motions and pleadings and written responses to Counsel for Discipline that included irrelevant and abusive material warranted period

of indefinite suspension followed by a period of probation of not less than one year, with attorney's reinstatement conditioned upon his establishing that counseling resulted in behavioral changes that would allow him to practice law within the disciplinary rules and that he had continued counseling with a qualified therapist, unless he was released from treatment. Code of Prof.Resp., DR 1-102.

**532 *Syllabus by the Court*

*289 1. **Disciplinary Proceedings: Appeal and Error.** A proceeding to discipline an attorney is a trial de novo on the record, in which the Nebraska Supreme Court reaches a conclusion independent

of the findings of the referee.

2. **Disciplinary Proceedings: Appeal and Error.** When no exceptions to the referee's findings of fact are filed by either party in a disciplinary proceeding, the Nebraska Supreme Court may, at its discretion, adopt the findings of the referee as final and conclusive.

3. **Disciplinary Proceedings: Proof.** To sustain a charge in a disciplinary proceeding against an attorney, the charge must be established by clear and convincing evidence.

4. **Disciplinary Proceedings.** The basic issues in a disciplinary proceeding against a lawyer are whether discipline should be imposed and, if so, the type of discipline appropriate under the circumstances.

5. **Disciplinary Proceedings.** To determine whether and to what extent discipline should be imposed in a lawyer discipline proceeding, the Nebraska Supreme Court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the offender

generally, and (6) the offender's present or future fitness to continue in the practice of law.

533 6. **Disciplinary Proceedings. Each attorney discipline case must be evaluated individually in light of its particular facts and circumstances. In addition, the propriety of a sanction must be considered with reference to the sanctions imposed in prior similar cases.

7. **Disciplinary Proceedings.** To determine the proper discipline of an attorney, the Nebraska Supreme Court considers the attorney's acts both underlying the events of the case and throughout

the disciplinary proceeding.

John W. Steele, Assistant Counsel for Discipline, for relator.

George H. Moyer, of Moyer, Moyer, Egley, Fullner & Warnemunde, Madison, for respondent.

HENDRY, C.J., WRIGHT, CONNOLLY, GERRARD, McCORMACK, and MILLER-LERMAN, JJ.

PER CURIAM.

The Counsel for Discipline of the Nebraska Supreme Court filed formal charges against James

Widtfeldt alleging ethical violations. A referee was appointed who heard evidence and made recommendations. We order an indefinite period of suspension followed by a period of probation.

*290 BACKGROUND

Widtfeldt was admitted to the practice of law in Nebraska in 1978 and entered practice in Holt County. He has a general practice and spends half of each day managing personal business affairs and the remainder practicing law. He has previously received a private reprimand for

representing both sides of a controversy in a tax case that is unrelated to the current action.

This complaint arose after **Widtfeldt** filed improper motions and pleadings in several cases, stemming from difficulties he had with Attorney Forrest Peetz and the city of O'Neill. At the hearing before the referee, **Widtfeldt** admitted that he does not get along with Peetz and that his animosity toward Peetz had crept into his pleadings at times. The animosity stems from Peetz' 1979 purchase of a home from a judge (now deceased) and **Widtfeldt's** strong feelings against financial transactions between judges and

attorneys. **Widtfeldt** stated that he remains troubled that the transaction occurred and that when he sees a judicial decision that he believes is incorrect, he worries there may be other transactions he is unaware of which may be influencing the decisions between attorneys and judges.

Widtfeldt also admitted that he experienced "significant friction" with the city of O'Neill over rental property and admitted that pleadings and motions in that case could appear to be based on personal animosity. However, he believes that his relationship with the city has improved.

The record contains examples of poorly drafted pleadings and motions that are lengthy and contain numerous, rambling, irrelevant details, making the pleadings difficult to understand. In one instance, **Widtfeldt** filed a motion in limine that had no relation to the alleged facts of the action. In another instance, a motion for a protective order filed by **Widtfeldt** against the city of O'Neill included three pages of allegations about perceived violations of various inspection laws or ordinances by the city attorney, Peetz, and another attorney.

In response to the complaint filed with the Counsel for Discipline, **Widtfeldt** filed lengthy responses containing irrelevant and inflammatory material. For example, ****534 Widtfeldt** continued to malign Peetz and a judge about the sale of the house. In another instance, **Widtfeldt's** responses included multiple pages *291 of inflammatory allegations about Peetz' alleged drinking habits and behavior at bar association meetings. **Widtfeldt** compared Peetz to Adolf Hitler, stating: "Peetz[']s mustache is not the only resemblance to a certain famous dictator who liked to circumvent the law, extract oaths of allegiance to himself personally, and exterminate defenseless civilians,

religious and racial minorities in the 1940s." The responses also contained allegations about irrelevant sexual activity.

Widtfeldt underwent a psychological evaluation for this action. Mark P. Hannappel, a psychologist, concluded that while Widtfeldt has superior intelligence, he is likely to have difficulty understanding nonverbal interactions, is likely to " 'get caught up in the details,' " and sometimes misses the " 'big picture.' " Hannappel noted narcissistic and obsessive-compulsive personality features and concluded that personality issues interfere with Widtfeldt's ability to reason through

certain issues and form working alliances with others. According to Hannappel, Widtfeldt can understand the disciplinary actions against him and can complete a plan to modify his behavior so that there is a much greater chance that the problems will not reoccur.

After a hearing, the referee found that the pleadings contained "irrelevant, immaterial and sometimes scandalous allegations" and that they included "vast quantities of verbiage having nothing whatever to do with the captioned matters." The referee further found that the pleadings were unnecessarily detailed and

complex. They took a long time to read and were unnecessarily difficult to interpret, answer, or otherwise respond to. The referee also found, however, that Widtfeldt did not plead the cases with bad intent, but instead did so in an effort to zealously represent his client and rectify problems he saw in government and the judicial branch; a finding that we disagree with. The referee agreed that counseling would benefit **Widtfeldt**. **Widtfeldt** is willing to take additional coursework or continuing legal education and work with a mentor. He also agrees to undergo further evaluation and attend followup counseling.

The referee next found that **Widtfeldt's** actions interfered with the administration of justice and adversely affected his fitness to practice law in violation of Canon 1, DR 1-102(A)(1) and (4) through (6), of the Code of Professional Responsibility, which states: ***292** "DR 1-102 Misconduct. (A) A lawyer shall not: (1) Violate a Disciplinary Rule.... (5) Engage in conduct that is prejudicial to the administration of justice.... (6) Engage in any other conduct that adversely reflects on his or her fitness to practice law." The referee further concluded that Widtfeldt violated his oath of office as an attorney licensed to practice law in Nebraska under Neb.Rev.Stat. § 7-104

(Reissue 1997). The referee recommended that Widtfeldt (1) receive a public reprimand; (2) attend appropriate continuing education involving pretrial litigation; (3) consult for 1 year with a mentor, who will review Widtfeldt's pleadings and filings and file a report at the end of the year; (3) attend further counseling for 1 year; (4) be on probation for 1 year; and (5) pay costs and fees associated with the disciplinary proceeding. No exceptions have been filed.

ASSIGNMENTS OF ERROR

Neither Widtfeldt nor the Counsel for Discipline takes exception to the factual findings of the referee.

**535 STANDARD OF REVIEW

[1] A proceeding to discipline an attorney is a trial de novo on the record, in which the Nebraska Supreme Court reaches a conclusion independent of the findings of the referee. *State ex rel. Counsel for Dis. v. Janousek*, 267 Neb. 328, 674 N.W.2d 464 (2004).

ANALYSIS

[2] Because neither party has taken exception to the referee's factual findings, the sole issue is the appropriate discipline to be imposed. When no exceptions to the referee's findings of fact are filed by either party in a disciplinary proceeding, the court may, at its discretion, adopt the findings of the referee as final and conclusive. *Id.*

[3] To sustain a charge in a disciplinary proceeding against an attorney, the charge must be established by clear and convincing evidence.

Id. Based on our review of the record and the undisputed findings of the referee, we determine that the facts have been established by clear and convincing evidence. Based on that evidence, we conclude that Widtfeldt has violated DR 1-102(A)(1), (5), and (6), as well as the attorney's oath required by § 7-104.

***293** [4][5] The basic issues in a disciplinary proceeding against a lawyer are whether discipline should be imposed and, if so, the type of discipline appropriate under the circumstances. *State ex rel. Counsel for Dis. v. Janousek, supra.* To determine whether and to what extent discipline

should be imposed in a lawyer discipline proceeding, we consider the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the offender generally, and (6) the offender's present or future fitness to continue in the practice of law. *Id.*

[6][7][8] Each attorney discipline case must be evaluated individually in the light of its particular facts and circumstances. In addition, the propriety of a sanction must be considered with reference to the sanctions imposed in prior similar

cases. *Id.*; *State ex rel. NSBA v. Flores*, 261 Neb. 256, 622 N.W.2d 632 (2001). To determine the proper discipline of an attorney, this court considers the attorney's acts both underlying the events of the case and throughout the disciplinary proceeding. *State ex rel. Counsel for Dis. v. Thompson*, 264 Neb. 831, 652 N.W.2d 593 (2002).

[9] Here, the record shows that Widtfeldt has repeatedly filed irrelevant and abusive motions and pleadings. In addition-even while under investigation-his written responses to the Counsel for Discipline included irrelevant and abusive material. Widtfeldt admits that his actions were

improper and violated provisions of DR 1-102. He is, however, willing to seek further counseling and education and work with a mentor. And we note that despite his bizarre responses to the Counsel for Discipline, **Widtfeldt** later sought psychological counseling and was cooperative in the disciplinary process. But we cannot ignore that Hannappel found that personality issues interfere with **Widtfeldt's** ability to reason through certain issues and form working alliances with others. It is clear that **Widtfeldt** requires further treatment. Thus, our main concern is fashioning a sanction that serves to protect the public. See *State ex rel. Counsel for Dis. v.*

We have said that in cases involving depression as a mitigating factor, a period of mandatory suspension coupled with terms of reinstatement will often be appropriate. *Id.* The suspension is not designed**536 as punishment. Instead, it is meant as a time period in which the respondent can seek treatment without imposing a *294 danger to his or her clients. Once the respondent can demonstrate that treatment has resulted in a meaningful and sustained recovery, he should then be placed on a period of probation with treatment and practice monitoring components.

Although Widtfeldt was not diagnosed with depression, he was found to be in need of psychological treatment. To ensure that Widtfeldt is properly treated before he returns to the practice of law, we disagree with the referee's recommendation of ordering solely probation and instead order a period of indefinite suspension followed by a period of probation of not less than 1 year. Widtfeldt may apply for reinstatement subject to the terms of probation. Upon application for reinstatement, Widtfeldt will have the burden of proving that he is fit to practice law

under the terms of his probation. He will need to establish that counseling has resulted in behavioral changes that will allow him to practice law within the disciplinary rules. Such proof shall include a showing that he has continued counseling with a qualified therapist unless he is released from treatment.

Following readmission, Widtfeldt shall be subject to probation for not less than 1 year, which will include a monitor to review his pleadings. The Counsel for Discipline shall serve as the monitor. However, a practicing attorney may be substituted if Widtfeldt and the Counsel for Discipline can

agree upon a practicing attorney who is willing to serve. See *State ex rel. Counsel for Dis. v. Thompson, supra.* If a practicing attorney does serve as the monitor, he or she shall not be compensated for his or her duties, but shall be reimbursed by **Widtfeldt** for actual expenses incurred. *Id.* At the end of the 1-year probationary period, it will be **Widtfeldt's** burden to show cause why the period of probation should not be extended for an additional year before he is released from probation.

CONCLUSION

We order that effective immediately, **Widtfeldt** be indefinitely suspended from the practice of law. He may apply for reinstatement consistent with the terms outlined above. Following reinstatement, he shall be subject to a term of probation for not less than 1 year, consistent with the terms outlined above. Widtfeldt shall comply with Neb. Ct. R. of Discipline 16 (rev.2004), and ***295** upon failure to do so, he shall be subject to punishment for contempt of this court. In addition, Widtfeldt is directed to pay costs and expenses in accordance with Neb.Rev.Stat. § § 7-114 and 7-115 (Reissue 1997) and Neb. Ct. R. of

Judgment of suspension and probation.

STEPHAN, J., not participating.

Neb.,2005.

State ex rel. Counsel for Discipline of Nebraska

Supreme Court v. Widtfeldt

269 Neb. 289, 691 N.W.2d 531

END OF DOCUMENT

BEFORE THE COMMITTEE ON INQUIRY

DISTRICT THREE

STATE OF NEBRASKA ex rel.]
COUNSEL FOR DISCIPLINE of the]
NEBRASKA SUPREME COURT,]
Petitioner,]
vs.]
JAMES WIDTFELDT,]
Respondent.]

PRIVATE REPRIMAND

This matter was initiated by a grievance filed by the Counsel for Discipline based upon his review of the case, Albert Widtfeldt Trust B vs. James Widtfeldt Trust, docketed at CI-01-78 in the District Court of Holt County, Nebraska. Thereafter, a Complaint was filed by the Assistant Counsel for Discipline alleging that the Respondent had engaged in conduct that violated the Code of Professional Responsibility

as more fully set forth in the attached Complaint.

An inquiry Panel of the District Three Committee on Inquiry has reviewed the records of the Counsel for Discipline including information furnished by the Respondent. After a review of the evidence, it is the determination of the Inquiry Panel that there are reasonable grounds for discipline of the Respondent but that no public interest would be served by the filing of Formal Charges. Further, the Inquiry Panel has determined that there are reasonable grounds to believe that the Respondent's conduct violated DR 1-102(A) (1) and (5), DR 5- 101(B), DR 5-105(A) and (B), and DR 6-101(A) of the Code of Professional Responsibility. The Inquiry Panel further finds that Issuance of a Reprimand by this Committee would be appropriate discipline in this instance.

IT IS, THEREFORE, ORDERED that the Respondent be, and he hereby is,. reprimanded for violating DR 1-102(A) (1) and (5), DR 5- 101(B), DR 5-105(A) and (B), and DR 6-101(A) of the Code of Professional Responsibility.

IT IS FURTHER ORDERED that this Reprimand be sent to the Respondent and that a copy of this Reprimand be transmitted to the Counsel for Discipline to be maintained by him in accordance with the Disciplinary Rules of the Nebraska Supreme Court

DATED this 26th day of September 2002

COMMITTEE ON INQUIRY
DISTRICT THREE

MARK A JOHNSON, Chair
THOMAS B. THOMSEN, Vice-Chair

Reiser Insurance, Inc

Herb Reiser - Steve Reiser P.O. 89

PH. (402) 336-1983 O'Neill, NE 68763

May 28, 2004

James Widtfeldt

PO Box 877

Atkinson, NE 68713

RE: Lawyers E & O Insurance

Dear James:

This letter is to advise James that I have tried to obtain a quote through four of the different brokerage insurance companies that I represent. I was told that they did not have a company that would provide E & O coverage for a single lawyer firm. The company

previously providing coverage was willing to renew the policy for a premium of $7,673.50 and I felt this was the only company that I could continue to provide James with coverage.

A year ago I had companies tell me that this type of coverage was going to cost James between $15,000 to $25,000 a year so I did not go any further with their quotes. This year these companies were not in the market at all.

Yours truly,

Herb Reiser

HR/bb

Published Friday

September 1, 2006

Three high court candidates advance

BY LESLIE REED

WORLD-HERALD BUREAU

LINCOLN - Some candidates told jokes. Some dropped names. Some looked inward, emphasizing personal qualifications for the job. Others focused outward, describing a vision for Nebraska's court system.

When it ended, three men were recommended to be the next chief justice of the Nebraska Supreme Court: U.S. Attorney Mike Heavican, a Republican; Supreme Court Judge John Gerrard, a Democrat; and District Judge John Icenogle, a Republican.

They were chosen from among nine applicants, each of whom got 10 minutes Thursday before the judicial nominating commission. Chief Justice John Hendry is retiring in October.

The bipartisan commission, composed of four lawyers elected by the Nebraska State Bar Association and four governor-appointed people who are not lawyers, took about three hours to make its recommendations.

The nominating panel is Nebraska's alternative to having judges run for election or giving the governor unfettered discretion in judicial appointments.

Gov. Dave Heineman now has 60 days to name a chief justice from among the nominees.

If Heavican gets the nod, he would be the first nonjudge appointed chief justice since then-Gov. Jim Exon named Norm Krivosha chief justice in 1978.

For Gerrard to get the post, Republican Heineman would have to look past the fact that no Republican has been named to the high court since 1987. The current seven-member court is composed entirely of Democrats appointed by former Gov. Ben Nelson.

Icenogle, if named, would be the first chief justice appointed from outside Lincoln or Omaha since

Robert G. Simmons, who served from 1939 to 1963. Icenogle lives in Kearney.

The nominating commission asked no questions during the public hearing. Afterward, it met with three candidates in private interviews, but none of the three interviewed made the final list.

In his presentation, Heavican stressed the breadth of his career.

During 10 years as Lancaster County attorney and 15 in the U.S. Attorneys Office, he worked on civil cases and criminal prosecutions and managed sizable offices. The U.S. Attorneys Office, for example, has more than 40 employees and a $5 million-plus annual budget.

Even his failed 1990 campaign for state attorney general is a boon, because he visited so much of the state, he said.

"I called it a very expensive tour of Nebraska," he joked.

Gerrard focused on the multifaceted role of the chief justice. Though the chief justice needs to be a very good judge, deciding cases is only about half the job, which includes managing an $80 million annual budget, 1,100 state court system employees and 130 judges statewide.

He said current Chief Justice Hendry has set high standards for the job, including organizational and

people skills, work ethic and vigor beyond question.

"You need to have the ability and willingness to walk into not one or two legislative offices but 49 legislative offices when something is important and needs to be done," Gerrard said.

Icenogle emphasized challenges facing the court. He cited shifts in state demographics that are straining court resources; more drug courts and other specialized courts that offer services rather than merely processing lawsuits; and joint efforts by the prison system and court system to supervise and treat offenders.

"The next chief justice is going to have to address a real resources problem," he said.

Contact the Omaha World-Herald **newsroom**

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Published Friday

September 1, 2006

Chief justice nominees

BY LESLIE REED

WORLD-HERALD STAFF WRITER

John Gerrard

John Gerrard

John Gerrard, 52, a longtime trial attorney from Norfolk, was appointed to the Nebraska Supreme Court in 1995 by then-Gov. Ben Nelson.

A former state probation officer, Gerrard holds a master's degree in probation and corrections from the University of Arizona. He received his law from the University of the Pacific McGeorge School of Law in 1981.

Since joining the Supreme Court, Gerrard has written more than 350 opinions and participated in more than 2,500 cases. He was the only registered Democrat to apply.

"It's very important that the next chief justice be a good judge, a very good judge," he said. "The chief justice is the face of the Supreme Court to the community, to the bar association and to the public at large."

* * *

Mike Heavican

Mike Heavican

Mike Heavican, 59, Lincoln, has been the U.S. attorney in Nebraska since 2001.

He worked in the U.S. Attorney's Office since 1991, serving both Republican Ron Lahners and Democrat Tom Monaghan.

After serving nearly 10 years in the elected post of Lancaster County attorney, he made a bid for Nebraska attorney general in 1990, losing to Don Stenberg in the Republican Party primary.

While in the U.S. Attorney's office, Heavican was especially active in drug crime prosecutions and served as lead attorney for the organized crime drug enforcement task force from 1992 until 2001. Before earning a law degree from the University of Nebraska in 1974, Heavican taught English for three years at Papillion High School.

"I am a hard worker, I am a consensus builder, I get things done," Heavican said. "I care about the justice system in Nebraska and I care about Nebraska."

* * *

John Icenogle

John Icenogle

John Icenogle, 57, Kearney, was appointed to the district court bench in 1990 by then-Gov. Kay Orr.

He served 14 years as a county court judge. He holds a bachelor's degree from Columbia University and a law degree from Tulane.

A highly rated judge, he has made contacts statewide through his involvement in a number of efforts, including serving on a task force that studied child deaths and on the Community

Corrections Council, which is developing alternatives to prison to help reduce Nebraska's prison population.

He was given the distinguished judge award by the Nebraska Supreme Court in 2003.

"I think I have a pretty good idea of the problems facing the people of our state and our children," he said. "I offer myself as someone who hopefully can offer some solutions to our problems."

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BUSINESS ADVISORY COUNCIL

NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE

For Immediate Release: Contact: NRCC Headquarters

September 8, 2006

MR. JAMES A. WIDTFELDT OF ATKINSON

TO BE AWARDED

CONGRESSIONAL MEDAL OF DISTINCTION

WASHINGTON, DC - NRCC Chairman Tom Reynolds and the National Republican Congressional Committee (NRCC) announced today that Mr. James A. Widtfeldt has been chosen as a 2006 Congressional Medal of Distinction winner.

Mr. Widtfeldt was selected based on unyielding support of the Republican Party, outstanding leadership in business and contributions to the local economy.

Only an elite group of business and professional people were nominated to receive the award before the awards selection committee reached a final decision. Commenting on Mr. Widtfeldt's selection, Congressman Reynolds said, "Mr. Widtfeldt has served as an Honorary Chairman of the Business Advisory Council and has provided much needed support. This award could not have gone to a more deserving candidate."

###

Paid for by the National Republican Congressional Committee and not authorized by any candidate or candidate's committee. www.nrcc.org

Not printed at government expense.

Legal Professional Services of George Moyer

Date	Services for	Amount
12/18/2003	NSBA vs Widtfeldt	$ 62.50
1/14/2004	Fisher vs Parsons	$ 846.28
1/20/2004	NSBA vs Widtfeldt	$1,190.50
2/16/2004	NSBA vs Widtfeldt	$ 208.75
3/8/2004	NSBA vs Widtfeldt	$ 146.25
5/26/2004	NSBA vs Widtfeldt	$2,056.59
7/1/2004	NSBA vs Widtfeldt	$ 189.00
7/26/2004	NSBA vs Widtfeldt	$ 381.75
9/22/2004	NSBA vs Widtfeldt	$ 312.50
10/20/2004	NSBA vs Widtfeldt	$2,823.50
11/26/2004	NSBA vs Widtfeldt	$ 737.07
12/28/2004	NSBA vs Widtfeldt	$ 62.50
1/26/2005	NSBA vs Widtfeldt	$ 115.29
3/3/2005	NSBA vs Widtfeldt	$1,1661.75
3/23/2005	NSBA vs Widtfeldt	$ 954.75
4/21/2005	NSBA vs Widtfeldt	$ 933.25
6/7/2005	NSBA vs Widtfeldt	$ 83.50

6/28/2005	NSBA vs Widtfeldt	$1.201.39
7/28/2005	NSBA vs Widtfeldt	$2.312.79
8/25/2005	NSBA vs Widtfeldt	$3.341.82
10/17/2005	NSBA vs Widtfeldt	$1.701.68
12/5/2005	NSBA vs Widtfeldt	$ 72.50
1/16/2006	NSBA vs Widtfeldt	
	& State vs Widtfeldt	$ 293.75
2/13/2006	State vs Widtfeldt	$ 103.75
2/13/2006	NSBA vs Widtfeldt	$ 161.25
3/6/2006	State vs Widtfeldt	$ 381.94
3/22/2006	NSBA vs Widtfeldt	$2,510.00
4/10/2006	NSBA vs Widtfeldt	
	& State vs Widtfeldt	$ 90.73
5/8/206	NSBA vs Widtfeldt	
	& State vs Widtfeldt	$ 314.00
6/21/2006	State vs Widtfeldt	$ 142.69
7/3/2006	NSBA vs Widtfeldt	$1,0003.00
7/10/2006	NSBA vs Widtfeldt	$ 42.47
8/14/2006	NSBA vs Widtfeldt	$ 125.00

9/18/2006	NSBA vs Widtfeldt	$ 281.00
	Net Total	$26,846.19

Professional Services of Mark Hannappel

Date	Services for	Amount
3/30/2004	evaluation	$800.00
3/8/2005	2 sessions	$200.00
4/26/2005	1 session	$100.00
6/7/2005	1 session	$100.00
7/7/2005	1 session	$200.00
	Net Total	$1,400.00

Check Written to Peetz Law Firm to pay in full all attorney fees for Kollman Estate.

July 7, 2005 Check No 6760

To Peetz Law P.C., L.L.O.

For $3,380.86

For Legal fees in the Kollman Estate.

September 18, 2006

Double Bypass

Health-Care Consultants Reap

Fees From Those They Evaluate

As Insurance, Drug Costs Rise,

Employers Seeking Advice

Often Discover Conflicts

A Superintendent's Surprise

By BARBARA MARTINEZ

September 18, 2006; Page A1 WALL STREET

JOURNAL

When Kevin Grady took over as an employee-benefits consultant for the Columbus Public Schools District in 2001, he signed a contract promising to act "in the best interest" of the schools. The Ohio district agreed to pay him $35,000 a year to help it choose a health insurer. Officials thought that was all Mr. Grady was getting out of the deal.

It wasn't. After the district switched its health insurance to **UnitedHealth Group** Inc. on what it says was Mr. Grady's recommendation, he started getting payments and other compensation from the

big Minnetonka, Minn., insurer. "Thank you and United for the steaks," Mr. Grady wrote in a Dec. 20, 2001, email to a UnitedHealth employee. "We'll have those on Christmas eve.

All told, UnitedHealth paid Mr. Grady $517,138 for helping it get the district's business. The district says it learned about the payments two years ago after a new human-resources chief came on the job. It canceled Mr. Grady's contract. Last month, the Ohio Department of Insurance suspended Mr. Grady's license for three years, accusing him of "deception." He was ordered to pay $137,000 in restitution to the

Columbus district and a $25,000 civil penalty. Earlier this year, UnitedHealth agreed to pay a $125,000 penalty to settle the matter without admitting wrongdoing.

The episode spotlights a widespread and largely invisible practice that critics say boosts the cost of health care. Many consultants and brokers who are hired to help employers get the best deal on health insurance or prescription-drug coverage have significant financial ties with the health vendors they are supposed to be scrutinizing. The ties may take the form of bonuses for bringing in business, commissions or consulting fees. Often they

are disclosed only partly or not at all.

Mr. Grady's son, Joe, who is president of the family consulting business, says his father is appealing the suspension and did nothing wrong because the payments he received are standard in the industry. "All [insurance] companies offer bonuses," says Joe Grady. "It's a way to sell the product and saves them from hiring 20,000 agents." He denies that his father pushed the district to choose UnitedHealth and contends the district knew all along about the payments. The insurer declined to discuss the specifics of Columbus case.

Consultants and other middlemen are

U.S. CENSUS BUREAU

State & County QuickFacts

Holt County, Nebraska

Population, 2005 estimate	10,784
Population, 2000	11,551
Population, percent change, April 1, 2000 to July 1, 2005	-6.6%

WSJ.com THE WALL STREET JOURNAL. ONLINE

August 12, 2006

PAGE ONE

DOW JONES REPRINTS

A Test for Alcohol --

And Its Flaws

A new screen detects Sunday's gin in Monday's urine

but it may be ensnaring some innocent people too

Beer or Hand Sanitizer?

By KEVIN HELLIKER

August 12, 2006; Page A1

HARRISBURG, Pa. -- The state of Pennsylvania this year suspended Nancy Clark's nursing license, saying the recovering addict violated her agreement to remain free of alcohol. Its evidence: a new type of urine test that Ms. Clark flunked.

The new analysis "is the gold standard of testing," Shawn E. Smith, a lawyer for the state, argued during a June 7 hearing here on Ms. Clark's fate.

Ms. Clark counters: "I didn't drink."

Gregory Skipper

Throughout history, few questions have prompted more lies than, "Have you been drinking?" For decades, the truth has been obtainable through urine tests and breathalyzers. But since alcohol dissipates from the system in a matter of hours, that truth always has been as fleeting as drunkenness itself. Whether a person is drunk this moment can be documented. But how about last weekend?

Now comes a test that can answer that question. Known as EtG, the test is being administered by the industry that searches the urine of millions

of Americans annually for illicit drugs. Because alcohol is legal, EtG testing is being performed only within a hidden society of people who aren't supposed to drink at all -- and are required to provide regular urine samples to prove it.

A breakthrough for the $4 billion-a-year urine-testing industry, the new test doesn't screen for alcohol. It screens for ethyl glucuronide, or EtG, a byproduct of the metabolization of alcohol, which remains in the system for about 80 hours. Now that Sunday's gin can be detected in Monday's urine, about 10% of people who had been passing conventional urine screens are testing positive for alcohol, say administrators of

the test.

About 20,000 urine samples a month are now being tested for EtG, which was introduced about two years ago, and that growth is continuing exponentially. At $25 -- compared with about $7 for a standard drug screen -- EtG represents an important new source of revenue for the urine-testing industry, whose largest players include Quest Diagnostics Inc. and National Medical Services.

Little advertised, though, is that EtG can detect alcohol even in people who didn't drink. Any trace of alcohol may register, even that ingested or inhaled through food, medicine, personal-care

products or hand sanitizer.

The test "can't distinguish between beer and Purell" hand sanitizer, says H. Westley Clark, director of the federal Substance Abuse and Mental Health Services Administration's center for substance-abuse treatment. His office intends to study EtG and issue a statement on its use in the fall. "When you're looking at loss of job, loss of child, loss of privileges, you want to make sure" the test is right, he says.

Because EtG is simply a molecule that any laboratory can identify, nobody owns the test. Urine-testing companies are marketing it to courts, which increasingly demand abstinence

from drunk-driving defendants. The test is also being marketed to boards or companies that license workers in health care, aviation, law and other professions. These boards routinely require urine monitoring of professionals who are recovering addicts. About 4,500 physicians alone in the U.S. are subject to urine monitoring.

The urine-testing industry doesn't need federal approval for tests that aren't used to monitor federal employees and aren't sold over the counter. Testing firms say it is up to their clients -- the courts and licensing boards -- to decide how to use the results.

"It's a powerful tool," says Doug Lewis,

president of United States Drug Testing Laboratories Inc. near Chicago. "But it's only a tool."

Some in sobriety enforcement contend any alcohol, however ingested, could trigger a relapse in recovering addicts. "They must abstain from alcohol in any form," says Kevin Knipe, manager of a Pennsylvania state program for monitoring physicians, nurses, pharmacists and others.

Yet critics worry that growing acceptance of the EtG test is punishing those who haven't relapsed or aren't problem drinkers. They argue it's unfair to demand addicts produce urine free of any

trace of alcohol because there is no comprehensive list of products that contain it. Mouthwash and cold medicine are sources of alcohol. It can also be found in pastries, perfume, salad dressing, insecticide, ripe fruit, lunch meat, vanilla extract, ice cream and automotive fuel.

Such critics have gained an unusual ally: the physician who pioneered EtG testing in America. "Use of this screen has gotten ahead of the science," says Gregory Skipper, an Alabama addiction specialist and recovering addict. He says he has received about $10,000 in consulting fees, mostly from urine-testing firms, in connection with the test.

CONSTITUTIONAL PROVISIONS AND RULES INVOLVED

First Amendment, United States Constitution

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fifth Amendment, United States Constitution

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject

for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment, United States Constitution

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal

protection of the laws.

DR 1

102. Misconduct

(A) A lawyer shall not:

(1) Violate a Disciplinary Rule.

(2) Circumvent a Disciplinary Rule through actions of another.

(3) Engage in illegal conduct involving moral turpitude.

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice. Once a lawyer is employed in a professional capacity, the lawyer should not, in the course of such employment, engage in adverse discriminatory treatment of litigants, witnesses, lawyers, judges, judicial officers, or court personnel on the basis of the person's race, national origin, gender, or religion. This subsection does not preclude legitimate advocacy when these factors are issues in a proceeding.

(6) Engage in any other conduct that adversely reflects on his or her fitness to practice law.

(7) Willfully refuse, as determined by a

court of competent jurisdiction, to timely pay a support order, as such order is defined by Neb. Rev. Stat. s 43

1717.

Nebraska DR 2

106. Fees for Legal Services

(A) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

(B) A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the

reasonableness of a fee include the following:

(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.

(3) The fee customarily charged in the locality for similar legal services.

(4) The amount involved and the results obtained.

(5) The time limitations imposed by the

client or by the circumstances.

(6) The nature and length of the professional relationship with the client.

(7) The experience, reputation, and ability of the lawyer or lawyers performing the services.

(8) Whether the fee is fixed or contingent.

(C) A lawyer shall not enter into an arrangement for, charge, or collect a contingent fee for representing a defendant in a criminal case.

DR 7

102. Representing a Client Within the Bounds of the Law

(A) In his or her representation of a client, a lawyer shall not:

(1) File a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of a client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

(2) Knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law.

(3) Conceal or knowingly fail to disclose

that which the lawyer is required by law to reveal.

(4) Knowingly use perjured testimony or false evidence.

(5) Knowingly make a false statement of law or fact.

(6) Participate in the creation or preservation of evidence when the lawyer knows or it is obvious that the evidence is false.

(7) Counsel or assist a client in conduct that the lawyer knows to be illegal or fraudulent.

(8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

(B) A lawyer who receives information clearly establishing that:

(1) A client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon the client to rectify the same, and if the client refuses or is unable to do so, the lawyer shall reveal the fraud to the affected person or tribunal, except when the information is protected as a privileged communication.

(2) A person other than a client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

Supreme Court, U.S.
FILED
DEC 1 - 2006
OFFICE OF THE CLERK

(2)

No. 06-431

In The

Supreme Court of the United States

James Widtfeldt et al,
Petitioner
v.
State of Nebraska,
Counsel for Discipline,
Nebraska Supreme Court,
Defendants.

On Appeal From
Nebraska Supreme Court

PETITION FOR REHEARING
PETITION FOR WRIT OF CERTIORARI

James Widtfeldt
PO Box 877, 103 East State
Atkinson, Nebraska 68713
Tel 402/925-2535 Fax 402/925-2564
Email: techtute@yahoo.com,

December 1, 2006

Questions presented

1. Is it against public policy to discipline a lawyer for disclosing judicial misbehavior pursuant to a code of ethics?

2. Is it against public policy to discipline a lawyer for working for a Low Level Radioactive Waste Siting, where the former governor and his 7 Democrat State Supreme Court are embarrassed by a $140 million plus judgment for damages?

3. Is it against public policy to discipline a lawyer for exercising free speech rights in noting that Nebraska is unlawfully violating civil rights in excluding racial minorities from housing?

4. Is it against public policy to discipline a lawyer for the purpose of forfeiting fees to a

Democrat party lawyer prominent in fund raising?

5. Is it against public policy for the Nebraska Supreme Court to allow a County Court Judge to conceal incompetence by filing grievances?

ADDITIONAL PARTIES

No additional parties appear than those in the caption. If the petition s granted, amices curie briefs may be solicited.

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PETITION FOR REHEARING RULE 44

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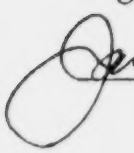
PETITION FOR RE-HEARING PETITION FOR WRIT OF CERTIORARI DENIED NOV 6, 2006

Petitioner James Widtfeldt respectfully petitions re-hearing on the petition for writ of certiorari denied November 6, 2006, to review the judgments of the Nebraska Supreme Court, of February 4, 2005 and, June 24 and August 24, 2006.

PETITION FOR REHEARING PRESENTED IN GOOD FAITH AND NOT FOR DELAY

This petition for rehearing of the November 6, 2006 denial of hearing is certified as presented in good faith and not for delay. Rule 44.2



James Widtfeldt

INTERVENING CIRCUMSTANCES

Holt County Judge Alan Brodbeck retention election November 7, 2006 gave 2378 votes yes to 1887 no (not final), a 55.76% approval. Boyd County gave 405 yes, 396 no for 50.56% . Judge's grievances and appellant's duties are likely to benefit from this Court's review.

James Widtfeldt rented office space to US Ecology, 1989 through 1996. Nebraska by then Governor Ben Nelson, breached contract with the Waste Commission in *Entergy Arkansas vs Nebraska*, 226 F.Supp 2d 1047 (Sept 30, 2002). The court faulted Ben Nelson. In a 1988 public initiative vote to leave the Compact, electors voted

to stay 414,394 votes to 225, 174. The Nebraska Supreme Court is trying to eliminate free speech.

RULE 10 PRIORITY STATE CONFLICTS

FEDERAL LOW LEVEL RADIOACTIVE WASTE

The State of Nebraska comes within US Supreme Court Rule 10b eligible for Supreme Court review, through the Ben Nelson legacy of all 7 appointed Nebraska Supreme Court Judges, and using its Court Disciplinary provisions to discipline this lawyer for supporting the US Congress prescribed Low Level Radioactive Waste Consortium, and to flout the federal court order in *Entergy Arkansas vs Nebraska*, 226 F. Supp 2d 1047 (Sep 30, 2002). The Republican governors

succeeding Nelson have appointed only one Supreme Court Justice, a Republican , in 2006, a far lower turnover rate for judges.

RULE 10 PRIORITY NEB CONFLICTS FEDERAL CIVIL RIGHTS/RACIAL DISCRIMINATION

Under Rule 10b, Nebraska, is abusing its Court Disciplinary provisions to discipline appellant for supporting federal civil rights law, including 42 USC §1983, by finding Widtfeldt pleadings defective for speaking about local government methods to defeat racial equality, against native American Hispanic immigrants.

RULE 10 PRIORITY STATE CONFLICTS ON FEDERAL UNLAWFUL ELECTION CAMPAIGN

FUNDING BY COURT DISCIPLINARY ACTIONS

Under Court Rule 10b, the all Democrat Nebraska Supreme Court abuses Disciplinary authority to shakedown and transfer fees to local Democrat contributors, in improper fundraising. *Dide v Howes*, 988 F.2d 1097, 1103

RULE 10 PRIORITY STATE CONFLICTS ON FEDERAL RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL, AND LAWYER'S DUTY TO REVEAL JUDICIAL MISCONDUCT

James Widtfeldt was suspended by the Nebraska Supreme Court after several motions to recuse local Judge Alan Brodbeck beginning in 2000. Judge Brodbeck substantially decided all

significant contested cases with opposing lawyer, against James Widtfeldt or clients for 20 years.

Governor Nelson appointed all 7 Supreme Court judges, coercing out previous judges. An all Democrat, and all Nelson anti-business, anti - contract, Democrat fundraising, Republican shakedown Supreme Court deprives the public of fairness or impartiality.

Republican governor Johanns and Heineman have been able to appoint only one Republican Nebraska Supreme Court Judge, in 2006, since Nelson.

OPINION BELOW

November 6, 2006, "The petition for a writ of

certiorari is denied."

JURISDICTION

This court has jurisdiction by its Order of November 6, 2006, through appeal Rule 13 within 90 days of judgment of highest State Court.

Rule 10b, gives jurisdiction.

28 USC § 1291 gives jurisdiction.

RELEVANT STATUTORY PROVISIONS

28 USC § 1291 jurisdiction

42 USC § 1983, Civil Rights Act

42 USC §§2021b-2021d Radioactive Waste Act

US Constitution, Amendment 1, right to redress

STATEMENT

This is a case involving lawyer suspension

by the all Dem~~ocrat Neb~~raska Supreme Court, appointed by Gov. Nelson of infamy in *Entergy Arkansas vs Nebraska*, 226 F.Supp 2d 1047 (2002)

Appellant rented office space to US Ecology in Butte, Nebraska 1989 through 1996.

Appellant was suspended for "bad pleadings", describing how local government attacked rental housing of Hispanics.

Effective assistance of counsel in *Strickland v. Washington*, 46 US 668, 684-5 (1984) was prevented by Nebraska. Many appellant cases languish without successor counsel as pro bono, the grievances orchestrated by Judge Brodbeck prejudiced appellant's clients and fostered

undeserved success to other lawyers.

PROPERTY VALUES INCONSISTENT WITH GOVERNMENT OVER REGULATION

Nebraska punished appellant for pleadings which demonstrate that property valuation is too high, and should be reduced because:

a) Nebraska encouraged racial bias

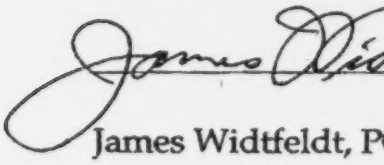
b) Nebraska refused Radioactive Waste Act

c) Nebraska refusal to factor population loss in property values.

Appellant has not won any significant contested cases in cases where any opposing counsel appeared, before Judge Alan Brodbeck.

CONCLUSION

Petitioner respectfully requests that this court determine that the State of Nebraska disciplinary actions are in conflict with federal laws regarding effective assistance of counsel, civil rights of racial minorities, low level radioactive waste siting, and freedom of speech.



December 1, 2006

James Widtfeldt, PO Box 877, 103 East State Street, Atkinson, Nebraska 68713, Tel 402/925-2535 Fax 402/925-2564, techtute@yahoo.com

APPENDICES

A1 Page 1

I, James Widtfeldt, do swear or declare that on this date, December 1, 2006, as required by Supreme Court Rule 29, I have served the enclosed Rule 12.3 and Rule 44 notice that the case, previously docketed (mailed) September 21, 2006 with previous notice of September 21, 2006, with three copies of the Petition for Rehearing of Petition for Certiorari, by placing in the regular or certified US mail, postage prepaid, addressed to the following:

$200 filing fee, original brief and 40 copies to:

Supreme Court of the United States

1 First Street, NE

Washington, DC 20543

3 copies to:

John W. Steele

Counsel for Discipline

3808 Normal Boulevard

Lincoln, Nebraska 68506

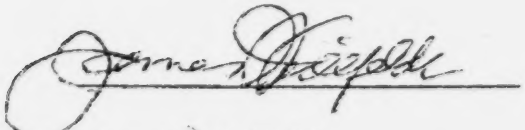
3 copies to:

Nebraska Supreme Court

2413 State Capitol

PO Box 98910

Lincoln, Nebraska 68509-8910

 Dec 1, 2006

James Widtfeldt

A2 Page 1 Petition for Rehearing not for Delay

I, James Widtfeldt, do swear or declare that on this date, December 1, 2006, as required by Supreme Court Rule 29, Rule 12.3 and Rule 44, that the case 06-431 Petition for Rehearing Petition for Certiorari, was not filed for delay, but rather because:

1. A large number of essentially political actions have issued from the State of Nebraska since the election of Ben Nelson as governor, and subsequent to his appointment of all 7 Democrat members of the Nebraska Supreme Court, essentially political grievances began to be filed by a large number of persons suggesting an organized effort.

2. James Widtfeldt participated in renting office space to the Low Level Radioactive Waste siting in Boyd County, as required by the US Congress authorized Compact of 5 States, in compliance with federal laws, however Ben Nelson guided Nebraska into a default on the siting of the waste site costing Nebraska over $140 million dollars, and this could be a factor in making the former governor and his residual Supreme Court nominees jealous of or resentful toward appellant.

3. James Widtfeldt practiced law for many years, and during those years become aware of irregular activities by Judge Alan Brodbeck which should, under the code of ethics, have required

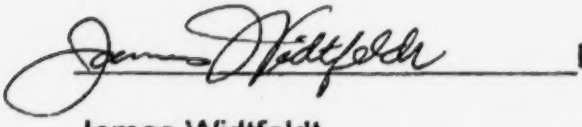
Judge Alan Brodbeck to be removed from office. Efforts to discreetly inform the Nebraska Supreme Court resulted in escalating criticism and public unfair and inaccurate criticism of James Widtfeldt with claims of "instability" and "improper pleadings", through the Nebraska Supreme Court, suggesting that the irregular behavior of Judge Alan Brodbeck was being encouraged and condoned on the highest levels in Nebraska, and that appeal and attempts to alert the US Supreme Court would be necessary to satisfy the ethical code of a lawyer in Nebraska.

4. Upon suspension of James Widtfeldt as a lawyer in Nebraska, James Widtfeldt became aware of unfair treatment of former clients who

were being subjected to abusive and wrongful treatment in the same Holt County Court, suggesting that the disciplinary actions against James Widtfeldt might be instituted for the improper purpose of throwing success in court to favorite lawyers of the judge, rather than decisions accurately on the law, facts and evidence, requiring further efforts to notify government at higher levels.

5. Appellant became aware, as a consequence of being a proponent of the radioactive waste siting, and then seeing Nebraska suffer damages for the former governor Ben Nelson's anti-contract attitude, that a similar fate of more financial hardships and damages

could befall and be imposed against Nebraska for racial policies being espoused through the highest levels of the State of Nebraska, and James Widtfeldt owed some duty to warn Nebraska.



Dec. 1, 2006

James Widtfeldt

A3 Order subject of this Petition for Rehearing

Order of the United States Supreme Court entered

November 6, 2006, in Case Number 06-431,

James Widtfeldt vs Nebraska